

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Minutes

June 19, 2003

1:30 - 4:30 PM

North West Forum (downstairs)
Doubletree Scottsdale Paradise Valley Resort
5401 N. Scottsdale Rd.
Scottsdale, Arizona

CIDVC Members Present

Hon. Chris Wotruba, Vice Chair
Allie Bones
Lt. Mark Carpenter
Hon. Dana Hendrix
Donna Irwin
Hon. Ronald Karp
Dr. Teresa Lanier
Sheri Lauritano, Esq.
Robert M. Lehner
Denise Lundin
Hon. Mark Moran
John Pombier, Esq.
Tracey Wilkinson

Members using a Proxy

Hon. Karen O'Connor, Chair
Patricia Klahr
Dr. Anu Partap

Staff Present

Catherine Drezak

Quorum: Yes

1. Call Meeting to Order: Judge O'Connor

The meeting was called to order at 1:45 PM. All those persons present introduced themselves. Guests attending the meeting were welcomed. Judge Mark Moran was appointed to conduct the meeting by the Chair, Judge O'Connor.

Guests

Theresa Barrett, Court Programs Unit, AOC
David Berg, IT Consultant, AOC
Evelyn Buckner, Governor's Office

Members RSVP (unable to attend)

Jerry Bernstein, Esq.
Hallie Bonger-White, Esq.
Martha Fraser Harmon
Bob James

Members Not Present

Hon. George Anagnost
Margaret Bentzen
Hon. Sherry Geisler
Hon. Mary Helen Maley
Robert Roll, IT Division, AOC

2. Review of Previous Meeting Minutes: Judge Moran

Minutes of the April 16, 2003 meeting were reviewed. Bob James requested that Dr. Lanier's name be included in the dissenting opinion of the DV Forms proposal.

Motion: Approve the April 16, 2003 minutes as amended.

Vote: Pass

Tasks: Make requested change.

3. Workgroup Reports:

A. Criminal Benchbook

There are still several changes which need to be incorporated into the document. They include revised HIPPA requirements, Rule 803 of the Az Rules of Evidence and DV advocate confidentiality items. The workgroup will hold a meeting to review the document, make changes and get the criminal Benchbook re-posted to the web. The Workgroup was reminded of the December deadline to have the approved Benchbook posted on the Web. Members are strongly encouraged to read the Benchbook and submit proposed changes to Catherine.

B. DV Forms Workgroup (CIDVC)

The Workgroup presented to and received support for the forms "in concept" from the Arizona Judicial Counsel and the Committee on Superior Courts. CIDVC members want to invite the Chair of the Court Automation coordination Committee (CACC) to the August meeting to discuss prioritization of the forms changes in AZTEC. CIDVC members also want a Spanish version of the DV forms to be posted on the DV website. The workgroup will reconvene to discuss proposed changes.

C. DV Benchbook Report (CIDVC)

The DV Benchbook Chair decided to re-convene the workgroup to finalize the document to further clarify Brady prohibition procedures and to add a script to provide guidance to judicial officers on the required fields for data collection. The Workgroup was reminded of the December deadline to have the approved Benchbook posted on the Web. Catherine will highlight the changes to the Benchbook on the web page. Members are strongly encouraged to read the Benchbook and submit proposed changes to Catherine.

4. Meeting Business: Judge Moran

A. Spanish translation of DV Forms on Web

The committee discussed the issue and decided to offer a Spanish version of the DV forms on the CIDVC web page.

Motion: Post a Spanish version of the current DV Forms on the CIDC web site.

Vote: Pass

Tasks: Get a Spanish version (from Maricopa Superior)

B. Service of Orders of Protection

This is a follow up item from a previous meeting. The committee requested Assistant Chief Lehner to poll the Arizona Chiefs Association on the each agency's policies for serving protection orders and invite 3-5 jurisdictions to the October meeting for a discussion on "service" policies, handling foreign orders and cross jurisdictional issues. Tracey Wilkerson will contact the Arizona Coalition Against Domestic Violence and other victim service agencies to gather information on service issues from a victim's viewpoint. Both will report back to the committee. A copy of a CPOR exception report will be provided to the CIDVC members at the August meeting.

Motion: Include in the October meeting

Vote: Pass

Tasks: Assistant Chief Lehner to poll the Arizona Chiefs Association to gather information.

Tracey Wilkerson will contact the AzCADV Violence and other victim service agencies to gather information.

Catherine will provide a copy of a CPOR exception report at the October meeting.

C. Brady Issues

Various members expressed concerns regarding the proper application of the Brady firearms prohibition on protection orders. Despite a variety of training opportunities, benchbooks and letters, there appears to be a large variance among judicial officers in the application of the Brady flag. Eric Epstein from the Phoenix Division of the ATF has a laminated card for firearms prohibition procedures. This card should be posted on the web. The DV Benchbook needs to be clearer on the issue.

Motion: Post Brady prohibitions on the CIDVC web page.

Vote: Pass

Tasks: Catherine will obtain a copy and permission to post the AFT firearms Benchcard and get copies for the committee members.
Bob James will insure the DV Forms clarify the Brady application procedures.

5. New Business: Judge Moran

A. CIDVC Chair

The application package for the Chair Position was submitted to the Chief Justice for approval. There are two candidates, 1) Judge O'Neil from the Superior Court of Pinal County and 2) Judge Majestic from Tempe Justice Court.

B. Legislation: suggested fee clean-up

(HIGH VISIBILITY ITEM)

CIDVC was disturbed by the decision of the Court of Appeals, Division One in determining that the 12- 2107 appeal fee prohibition fee did not apply to them. Division One stated in an opinion that the fees in 12-2107 applied to superior courts appeal actions.

A.R.S. §12-2107(B)states: “A filing fee shall not be charged to an appellant for filing an appeal, or to an appellee filing a cross appeal in the same case, to the court of appeals or to the supreme court from ...a protection order....”

There is a larger issue in that charging fees in protection order cases will disqualify the state from receiving Violence Against Women grant funds.

1) CIDVC voted to request the Chief Justice to send a letter to all presiding judges emphasizing that there are NO FEES for orders of protection or injunctions against harassment in dv cases. Furthermore CIDVC wants the CJ to admonish courts to not charge any fees for appeals of DV protection order cases. CIDVC will draft a copy of the proposed letter at the August meeting.

2) And CIDVC requested representatives of the Governor’s office to discuss the issue with the Governor and urge her to issue a letter to all city managers and city counsels discouraging them from passing rules to impose local fees on protection orders.

CIDVC will review the fee schedule and submit a legislative proposal to close loopholes which allow fees to be charged in protection order cases. John Pombier volunteered to chair the workgroup to review possible legislation.

Motion: Request the Chief Justice to send a letter to all presiding judges emphasizing that there are NO FEES for protection orders in dv cases.

Vote: Pass

Tasks: Draft a letter for review by the committee.

6. Call to the Public: Public Attending

A. CPOR Policy Issue (CIDVC)

David Berg asked CIDVC to move forward on the approved recommendation to allow law enforcement officers access to unserved protection order information.

Motion: CIDVC Chair should bring the issue forward to the AJC for approval.

Vote: Pass

Tasks: Get this item on the AJC October agenda.

B. DV Education Workgroup(CIDVC)

The DV education presented at the Annual Judicial Conference was a huge success. The topic, The Impact of DV on Children, was a well chosen. Education Services had to “open up” the size limit to include the 81 participants who wanted the training. On the day of the training more people arrived than had signed up for the classes. There were approximately 100 participants. The group actively participated in various lively discussions and many expressed appreciation for the high caliber of the faculty.

Tasks: Informational only

C. Data quality

CIDVC wants judicial officers to be trained on the mandatory “fill fields” in AZTEC to provide judicial oversight in data collection.

D. Batterer Woman’s Testimony Project Report

A member of the committee requested that CIDVC review the Battered Women’s Testimony Project conducted and published by the Arizona Coalition Against Domestic Violence (AzCADV). The report was made available at the Judicial Conference today. The committee debated the pros and cons to preparing a response to the report. Perhaps the issue can be placed on the agenda for further discussion after the members have read the report.

7. Next Meeting: August 20, 2003 10:00 – 2:00 PM, AOC Conference room 119 A&B, Phoenix, AZ

8. Adjournment: Judge Moran

The meeting adjourned at 3:07 PM.